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February 6, 2007

DECISION AND ORDER  
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Case Name: Personnel Security Hearing

Date of Filing: August 29, 2006

Case Number: TSO-0427

This Decision concerns the eligibility of XXXX XXXXXXXXX (hereinafter referred to as "the individual") to hold an access authorization under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material."<sup>1/</sup> A Department of Energy (DOE) Operations Office denied the individual's request for an access authorization under the provisions of Part 710. This Decision considers whether, on the basis of the evidence and testimony presented in this proceeding, the individual's request for an access authorization should be granted. As set forth in this Decision, I have determined that the individual should not be granted a security clearance at this time.

I. Background

The provisions of 10 C.F.R. Part 710 govern the eligibility of individuals who are employed by or are applicants for employment with DOE, contractors, agents, DOE access permittees, and other persons designated by the Secretary of Energy for access to classified matter or special nuclear material. Part 710 generally provides that "[t]he decision as to access authorization is a comprehensive, common-sense judgment, made after consideration of all relevant information, favorable and unfavorable, as to whether the granting or continuation of access authorization will not endanger the

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<sup>1/</sup> An access authorization is an administrative determination that an individual is eligible for access to classified matter or special nuclear material. 10 C.F.R. § 710.5. Such authorization will be referred to variously in this Decision as an access authorization or security clearance.

common defense and security and is clearly consistent with the national interest." 10 C.F.R. § 710.7(a).

In this instance, the individual requested a DOE security clearance after gaining employment with a DOE contractor. However, the local DOE security office (DOE Security) initiated formal administrative review proceedings by informing the individual that his access authorization was being denied pending the resolution of certain derogatory information that created substantial doubt regarding his eligibility. This derogatory information is described in a Notification Letter issued to the individual on June 8, 2006, and falls within the purview of potentially disqualifying criteria set forth in the security regulations at 10 C.F.R. § 710.8, subsection j. More specifically, the Notification Letter alleges that the individual has "[b]een, or is, a user of alcohol habitually to excess, or has been diagnosed by a psychiatrist or a licensed clinical psychologist as alcohol dependent or as suffering from alcohol abuse." 10 C.F.R. § 710.8(j)(Criterion J). The Notification Letter states in support of this finding that on April 17, 2006, the individual was examined by a DOE consultant psychiatrist (DOE Psychiatrist) who subsequently issued a report setting forth his opinion that the individual is a user of alcohol habitually to excess.

In a letter received by the DOE Office of Hearings and Appeals (OHA) on August 29, 2006, the individual exercised his right under Part 710 to request a hearing in this matter. 10 C.F.R. § 710.21(b). On September 1, 2006, I was appointed as Hearing Officer. I set a hearing date after conferring with the individual and the appointed DOE Counsel, 10 C.F.R. § 710.24. At the hearing, the DOE Counsel called the DOE Psychiatrist as DOE Security's sole witness. Apart from testifying on his own behalf, the individual called as witnesses a co-worker, two supervisors, two close friends and his psychiatrist. The transcript taken at the hearing will be hereinafter cited as "Tr.". Various documents that were submitted by the DOE Counsel and the individual during this proceeding constitute exhibits to the hearing transcript and will be cited respectively as "DOE Exh." and "Ind. Exh.."

### Summary of Findings

The following factual summary is essentially uncontroverted. However, I will indicate instances in which there are disparate viewpoints regarding the information presented in the record.

The individual accepted a position with a DOE contractor and sought to obtain a security clearance as a condition of his employment. However, DOE Security received derogatory information during the background investigation of the individual, including reports from sources that the individual often consumed alcohol. The individual was therefore summoned for a Personnel Security Interview (PSI), conducted on February 13, 2006, to discuss the individual's use of alcohol and other

matters. During the PSI, the individual described his history of alcohol use starting from when he first began to drink on a regular basis, during the 1980's when he was in his late teens and early 20's. Of significant concern, however, were the individual's statements regarding his pattern of alcohol use at the time of the PSI. The individual stated that he consumed alcohol three or four times a week, usually wine, beer or rum, and his consumption typically ranged from one to eight drinks. The individual further stated that he drank to the point of intoxication once and sometimes twice per week, on occasions when he consumed seven or eight drinks within a couple of hours. By his report, the individual had never experienced any legal, social, work or family problems caused by drinking. The individual did not consider his use of alcohol to be excessive and had no plans to modify his consumption. DOE Security determined, however, that its concerns with the individual's use of alcohol were unresolved and referred the individual to the DOE Psychiatrist.

During the psychiatric interview, conducted on April 17, 2006, the individual provided greater detail regarding his history of alcohol use. According to the DOE Psychiatrist, the individual stated that he began drinking as a teenager and, during his latter two years of high school, he got intoxicated "a couple of times a month" when he would have six drinks in two hours. The individual's consumption of alcohol escalated during his college years, from 1982 to 1987, when he reportedly was intoxicated three or four times a month. The individual further stated that there were twenty to fifty occasions in college when he drank as many as twelve beers over a three to four hour period. The individual informed the DOE Psychiatrist that his drinking subsided after college and that from 1989 to the time of the psychiatric interview in April 2006, he drank to the point of intoxication on an average of once a month. Asked by the DOE Psychiatrist when he was last intoxicated, the individual stated that he was intoxicated five days prior to the psychiatric interview at a gathering of his friends, when he reportedly consumed fourteen drinks (seven beers and seven shots of whiskey) over a ten-hour period. Additional information provided by the individual indicated that the individual had consumed alcohol on five of the seven days preceding the psychiatric interview. Similar to the PSI, the individual described himself as a social drinker and stated that he had no plans to modify his consumption of alcohol.

In his report issued on April 23, 2006, the DOE Psychiatrist stated that he was unable to diagnose the individual with alcohol abuse or dependence since the individual did not appear to have experienced any problems associated with his use of alcohol. Notwithstanding, the DOE Psychiatrist determined that the individual has been and was currently (at the time of psychiatric interview) a user of alcohol habitually to excess. Since the individual was determined not to have a diagnosable mental condition, the DOE Psychiatrist opined that no formal treatment or process of rehabilitation was necessary or appropriate with regard to the individual. However, the DOE Psychiatrist recommended that the individual remain abstinent for two years as adequate evidence of reformation from his drinking habitually to excess.

## II. Analysis

A DOE administrative review proceeding under 10 C.F.R. Part 710 is not a criminal matter, in which the burden is on the government to prove the defendant guilty beyond a reasonable doubt. See Personnel Security Hearing, Case No. VSO-0078, 25 DOE ¶ 82,802 (1996). In this type of case, we are dealing with a different standard designed to protect national security interests. A hearing is "for the purpose of affording the individual an opportunity of supporting his eligibility for access authorization." 10 C.F.R. § 710.21(b)(6). Once DOE Security has made a showing of derogatory information raising security concerns, the burden is on the individual to come forward at the hearing with evidence to convince the DOE that granting or restoring his access authorization "would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). This standard implies that there is a strong presumption against the granting or restoring of a security clearance. See *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for the granting of security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), cert. denied, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

I have thoroughly considered the record of this proceeding, including the submissions of the parties, the evidence presented and the testimony of the witnesses at the hearing convened in this matter. In resolving the question of the individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c): the nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct, to include knowledgeable participation; the frequency and recency of the conduct; the voluntariness of the participation; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the motivation for the conduct; the potential for pressure, coercion, exploitation, or duress; the likelihood of continuance or recurrence; and other relevant and material factors. After due deliberation, it is my opinion that the individual should not be granted an access authorization at this time since I am unable to conclude that such granting would not endanger the common defense and security and would be clearly consistent with the national interest. 10 C.F.R. § 710.27(d). The specific findings that I make in support of this determination are discussed below.

### A. Derogatory Information

I find initially that DOE Security properly invoked Criterion J in withholding the individual's security clearance. During the PSI, the individual informed DOE Security that he drank three to four times a week, and that he drank to the point of intoxication once and sometimes twice per week when he consumed seven or eight drinks within a couple of hours. See DOE Exh. 5 (PSI) at 48-50. I note that before providing this

information, the individual was instructed to answer using his own definition of “intoxication” which the individual conceived as “impaired, physically and . . . to the point where you don’t have a great deal of control.” Id. at 46. During the psychiatric interview, the individual was similarly instructed by the DOE Psychiatrist to estimate his frequency of intoxication using his own definition of intoxication. At that time, the individual defined “intoxication” as “decreased coordination, slurred speech, judgment is significantly deviant.” See DOE Exh. 3 (DOE Psychiatrist’s Report) at 10. The individual then informed the DOE Psychiatrist that he was drinking to intoxication on an average of once a month, rather than once or twice a week as he stated during the PSI. Id. at 13. According to the DOE Psychiatrist’s report, the individual further informed him that he had consumed alcohol (typically two to four drinks) on five of the seven days prior to the examination and that, on one of those occasions, he consumed 14 drinks (seven beers and seven shots of whiskey) over ten hours. Id. at 10.<sup>2/</sup>

On the basis of the foregoing, I find ample evidence that the individual was a user of alcohol habitually to excess at the time of the PSI and psychiatric interview. In other DOE security clearance proceedings, Hearing Officers have consistently determined that a finding of excessive alcohol use raises important security concerns. See, e.g., Personnel Security Hearing, Case No. VSO-0079, 25 DOE ¶ 82, 803 (1996) (affirmed by OSA, 1996); Personnel Security Hearing, Case No. VSO-0042, 25 DOE ¶ 82,771 (1995) (affirmed by OSA, 1996); Personnel Security Hearing, Case No. VSO-0014, aff’d, Personnel Security Review, 25 DOE ¶ 83,002 (1995) (affirmed by OSA, 1995). It was observed in those decisions that the excessive use of alcohol might impair an individual’s judgment and reliability, and his ability to control impulses. Id. These factors amplify the risk that the individual will fail to safeguard classified matter or special nuclear material. Accordingly, I will turn to whether the individual has presented sufficient evidence of reformation to mitigate the security concerns of DOE Security.

## B. Mitigating Evidence

The individual does not view himself as having a drinking problem, and states that he was unaware that DOE Security referred him to the DOE Psychiatrist to address this issue. Tr. at 93, 95, 98-99. According to the individual, he thought that DOE Security had decided to send him to the DOE Psychiatrist to discuss a panic disorder for which

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<sup>2/</sup> In his report, the DOE Psychiatrist estimates that based upon the individual’s size and weight, the individual’s blood alcohol content would have been .204 after this amount of alcohol consumption. DOE Exh. 3 at 10, note 15. At the hearing, the individual modified his account, stating that the seven beers were not actually 12-ounce beers but glasses of beer holding somewhat less, and that his drinking occurred over 14 hours rather than ten hours. Tr. at 124. Despite these clarifications, however, it is apparent that the individual reached a high level of intoxication on this occasion.

the individual takes medication,<sup>3/</sup> and he was surprised when the psychiatric interview focused predominantly upon his use of alcohol. Tr. at 95.<sup>4/</sup> The individual described himself as a “social drinker” during the psychiatric interview and stated that he had no intention of modifying his drinking habits. See DOE Exh. 3 at 13. At the hearing, however, the individual testified that he decided to begin complete abstinence from alcohol on May 23, 2006 for two reasons: first, he wanted to eliminate alcohol from his diet to lose weight<sup>5/</sup> and, second, because in reflecting on his psychiatric interview it was apparent that his use of alcohol was an issue in obtaining a security clearance. Tr. at 93-94. The individual’s close friends corroborated his testimony, stating that they have not seen the individual consume any alcohol since May 2006. See Tr. at 38, 41-42, 47.

In addition, the individual substantially recanted the information he provided during the PSI and psychiatric interview regarding his frequency of intoxication prior to his assuming abstinence. According to the individual, he did not feel comfortable when forced to give a precise estimate of his frequency of intoxication and, in attempting to be truthful, he gave a higher number than accurate. Tr. at 85. The individual acknowledged during cross-examination that the questions posed to him during the PSI and psychiatric interview were clear, and that he understood that he was to use

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<sup>3/</sup> During his background investigation and PSI, the individual revealed that in late 1996, he began exhibiting symptoms of a panic disorder which manifested physical symptoms resembling a heart attack, including rising blood pressure, shortness of breath, tingling in the limbs and sweating. See DOE Exh. 5 at 10. The individual received psychiatric treatment and was diagnosed with Panic Disorder and Agoraphobia (abnormal fear of open spaces), and was placed on various medications (Xanax, Lexapro and Paxil) which the individual has taken intermittently since 1997. See *id.* at 11-22. As discussed below, the individual’s present psychiatrist met the individual in June 2005 when she began treating the individual for his Panic Disorder. Tr. at 60. However, the DOE Psychiatrist did not deem this matter significant in his report, in comparison to the individual’s use of alcohol, concluding only that “[the individual] also has an illness, Panic Disorder, which has not caused a significant defect in his judgment or reliability in the past. It is unlikely that it would do so in the present or the future.” DOE Exh. 3 at 16.

<sup>4/</sup> The DOE Psychiatrist somewhat disputed this account, stating that “after the evaluation was over he told me he was surprised that the emphasis was on alcohol rather than panic disorder. But . . . he didn’t look surprised while I was talking to him.” Tr. at 130. The DOE Psychiatrist further confirmed that the individual did not appear confused during the psychiatric interview, and that his report accurately states the information given to him by the individual based upon his contemporaneous notes of the interview. Tr. at 129-30.

<sup>5/</sup> According to the individual, he has lost 30 to 40 pounds since going on a diet and ceasing all consumption of alcohol in May 2006. Tr. at 93-94.

his own definition of intoxication in answering the questions. Tr. at 112-14, 117-18. The individual answered during the PSI that he became intoxicated once or twice a week, and on an average of once a month at the psychiatric interview. Id. At the hearing, however, the individual testified that during the year preceding his psychiatric interview in April 2006, he was intoxicated: "Once a month, 12 times a year, eight times a year, 16 times a year, 12 plus or minus six. I couldn't recall specific times between April of '05 and April of '06 that I specifically got drunk. I may recall one or two occasions where I knew, but there could have been other occasions there that I could have been." Id. at 115. Later during the hearing, the individual testified: "I could probably guess a half a dozen times that I was probably intoxicated, but that's clearly a guess . . . I don't keep track of my alcohol consumption because I never had a problem." Id. at 120. Still later, the individual responded: "Half a dozen times with a large delta, meaning that it could have been 12, yes, it could have been four. That's my answer." Id. at 122.

Following the hearing, the individual submitted a letter from a counselor (Counselor),<sup>6/</sup> a licensed alcohol and drug abuse counselor and the administrator of a local treatment program. The Counselor evaluated the individual on October 16, 2006, approximately one month prior to the hearing. In his report, dated November 8, 2006, the Counselor recounts the following information supplied to him by the individual: "[The individual] reports that prior to May 23, 2006 (the day he became abstinent) he drank alcohol 4 nights per week, 1-4 drinks each time. He usually drank wine, occasionally a mixed drink and rarely beer. [The individual] stated that he knew of 2 definite situations when he used alcohol to excess and estimates that possibly it could have been as many as 6 times per year, usually at special social occasions. He feels his use of alcohol was well within the range of moderation and he does not feel he has an alcohol problem." Ind. Exh. 7 at 1. On the basis of this information, the counselor sets forth the following analysis:

Although there is no clinical criteria to determine if a person is "a user of alcohol habitually to excess", the socially acceptable norm is considered to be 2-4 drinks once or twice per week. If one accepts this informal criterion, then it would appear that: 1. [The individual] drank more frequently than the social norm. 2. In response to "excess", it is not clear however, whether or not [the individual's] consumption of 1-4 drinks on

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<sup>6/</sup> The Counselor was among the witnesses that the individual scheduled to testify in his behalf, but inexplicably failed to appear on the day of the hearing. I therefore, with the consent of DOE Counsel, granted counsel for the individual three weeks leave to supplement the record with a written statement from the Counselor. Tr. at 128. I received the Counselor's report on November 21, 2006, and have designated it "Ind. Exh. 7." In the letter transmitting the report, counsel for the individual explained that the Counselor was involved in an automobile accident on the day of the hearing.

any given night would lead to intoxication (excess). For example, if [the individual] drank these 4 drinks spaced out evenly over a 3-4 hour period; he would not reach a blood-alcohol content (BAC) above the legal limit of .08 and would metabolize the alcohol completely before morning. It is quite possible that [the individual] could consume 4 alcoholic drinks each night and never reach intoxication (excess).

Id. at 5. The Counselor then concludes, in pertinent part, that “[a]s to a determination of whether or not [the individual] is ‘a user of alcohol habitually to excess’, I can only conclude that it appears he had been drinking more alcohol on a weekly basis than would be considered the social norm.” Id. (emphasis in original). The Counselor further opines, however, that the individual has demonstrated adequate evidence of reformation since, with six months of abstinence, “it appears that [the individual] has shown he is capable of controlling, moderating or discontinuing the use of beverage alcohol, at will.” Id.

Three of the individual’s friends<sup>7/</sup> who testified at the hearing stated that they could not recall any instances when the individual was excessive in his consumption of alcohol, and saw no indication that the individual had a drinking problem. See Tr. at 10, 40, 48-49. The only exception was a recollection by one friend that the individual complained of having a hangover the day following St. Patrick’s Day 2006. Tr. at 44. The individual’s friends, as well as his two supervisors who testified, consider the individual to be honest and reliable. See Tr. at 11, 23, 32, 50.

The individual’s psychiatrist (Individual’s Psychiatrist) also testified at the hearing. The Individual’s Psychiatrist met the individual in June 2005, when she began treating him for his panic disorder (see note 3, supra) and has seen him six or seven times. Tr. at 60. However, the individual requested that the Individual’s Psychiatrist perform an alcohol evaluation of him after he received the DOE Psychiatrist’s report. Tr. at 63-64. According to the Individual’s Psychiatrist, the individual informed her that prior to beginning abstinence, “he drank several drinks several times, several nights a week.” Tr. at 65. The Individual’s Psychiatrist proffered no professional opinion with regard to whether the individual’s consumption of alcohol constituted “drinking habitually to excess” since this is not a term recognized in the field of psychiatry. Tr. at 65-66. However, to the extent that the individual may have drank too much in the past, she believes that the individual has “turned the corner” on his problems with alcohol, noting that the individual had been abstinent for six months at the time of the hearing. Tr. at 69. The Individual’s Psychiatrist described the individual as “dead serious” about maintaining his sobriety, stating further that “[the

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<sup>7/</sup> The three friends have known the individual for only 1-1½ years at the time of the hearing, just meeting the individual after he moved to the vicinity upon accepting employment with the DOE contractor. See Tr. at 21, 38, 46.



individual] is very motivated to prove that he is willing to remain abstinent from alcohol if it presents a problem.” *Id.*<sup>8/</sup>

The DOE Psychiatrist testified at the conclusion of the hearing, after listening to the testimony of the individual and his witnesses. In the opinion of the DOE Psychiatrist, he had heard nothing that would lead him to change the opinion set forth in his report regarding the individual, or his recommendation for adequate reformation that the individual achieve two years of abstinence. Tr. at 130. The DOE Psychiatrist stated that “I want to be 95 percent certain that his risk of drinking habitually to excess is ten percent or less. He’s drank habitually to excess, by what he told me, for 25 years, starting in 1981 going up to 2006. . . . I don’t think his risk of relapse is ten percent or less in the next five years, with only six months of abstinence.” Tr. at 134. The DOE Psychiatrist further clarified that his opinion was not changed by the individual modifying his estimate of his rate of intoxication, stating “I believe [the individual] said perhaps six times a year, but there was a big delta, meaning plus or minus, so it could be even up to 12 times a year. So to me that wouldn’t make any difference at all. The important thing is that he has been doing this for 25 years.” Tr. at 139.

### C. Hearing Officer Opinion

I have carefully considered the record of this case in light of the mitigating evidence presented by the individual. I am satisfied that the individual has demonstrated the ability to control his drinking by remaining abstinent for a period of six months prior to the hearing. Nonetheless, for the reasons below, I do not find that the individual has sufficiently mitigated the security concerns related to his use of alcohol habitually to excess.

First, I am disturbed by the varying accounts the individual has given regarding his frequency of intoxication during the years preceding his beginning abstinence in May 2006. Using his own definition of “intoxication,” the individual stated during the PSI in February 2006 that he drank three to four times a week, and that he was intoxicated once and sometimes twice per week on occasions when he consumed seven or eight drinks within a couple of hours. See DOE Exh. 5 (PSI) at 48-50. Thus, the individual indicated that he had become intoxicated a minimum of 52 times during the preceding year. I have reviewed the relevant portion of the PSI transcript and I can discern no

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<sup>8/</sup> To further reduce the individual’s risk of relapse into problematic drinking, the Individual’s Psychiatrist recommended that “it would be a good thing for him to remain in therapy with his current therapist, who is certified as a drug and alcohol counselor,” referring to the Counselor who was scheduled to testify at the hearing but did not appear. Tr. at 73; *see* note 5, *supra*. I note, however, that while the Counselor’s report states that he was requested to perform an alcohol evaluation of the individual, there is no indication that the individual entered into therapy with the Counselor. *See* Ind. Exh. 7 at 1.

ambiguity or confusion with regard to the questions posed by the Personnel Security Specialist. During the psychiatric interview, the individual informed the DOE Psychiatrist that he was intoxicated “once a month” during the preceding years. DOE Exh. 3 at 13. The individual testified at the hearing, however, that “it could have been 12 . . . it could have been four.” Tr. at 122. In observing the individual’s demeanor at the hearing, I did not find him to be candid and truthful. Instead, he appeared to be intentionally minimizing his past use of alcohol.

Finally, the record indicates that in October 2006 the individual informed the Counselor that his frequency of intoxication “possibly could have been as many as 6 times per year.” Ind. Exh. 7 at 1. The individual further informed the Counselor that he “drank alcohol 4 nights per week, 1-4 drinks each night.” Id. at 5. This information led the Counselor to conclude that while the individual drank more frequently than what might be considered normal (two times a week), it was unclear whether the amount he consumed resulted in intoxication. See id. However, the “1-4 drinks” the individual described to the Counselor is contrary to the pattern the individual described during the PSI of consuming seven to eight drinks once or twice a week. A fair analysis of the record of this case leads me to conclude that the individual spoke more openly and honestly about his drinking habits at the PSI, but since then he has increasingly minimized his drinking, during the psychiatric interview, at the hearing and to the Counselor, once it became clear to the individual that his drinking was a concern to DOE Security. I find that the individual was a drinker of alcohol habitually to excess during the years preceding May 2006, and that his frequency of intoxication was likely between the estimates he gave during the PSI (once or twice a week) and psychiatric interview (once a month).

Added to my concern about the individual’s truthfulness is his refusal to acknowledge that his drinking was ever excessive. During the PSI, the individual stated that “I don’t consider any of my use of alcohol to be excessive.” DOE Exh. 5 at 54. The individual informed the DOE Psychiatrist that “I have no cognizant plans on how I’m going to use alcohol in the future.” DOE Exh. 3 at 13. In May 2006, one month following the psychiatric interview, the individual decided to stop drinking but clarified at the hearing that this decision was prompted as much by a desire to lose weight as wanting to alleviate the security concerns about his drinking. See Tr. at 93-94. His decision was clearly not based upon any acceptance that he drank too much in the past. In October 2006, one month prior to the hearing, the individual informed the Counselor that he “feels his use of alcohol was well within the range of moderation and he does not feel he has an alcohol problem.” Ind. Exh. 7 at 1. When asked whether he intends to remain abstinent from alcohol at the hearing, the individual responded that “I’m committed in that direction . . . alcohol is nothing compared to keeping my position here and obtaining a [security] clearance so that I can perform my work duties.” Tr. at 105. However, the manner in which the individual responded to this question, in combination with his prior statements, leads me to believe that there is a substantial

likelihood that the individual would return to his previous pattern of drinking if he were granted a security clearance.

Thus, while the individual may be capable of maintaining his sobriety or keeping his drinking within acceptable norms, I am not persuaded that the individual has the genuine conviction to do so. The individual's six months of sobriety at the time of the hearing are insufficient to extinguish my doubts in this regard.<sup>9/</sup> Section 710.7(a) provides that "[a]ny doubt as to an individual's access authorization eligibility shall be resolved in favor of national security." 10 C.F.R. § 710.7(a). Accordingly, I must find that the individual has not yet overcome the security concerns associated with his past use of alcohol to excess,<sup>10/</sup> and I cannot recommend granting the individual a security clearance at this time. See Personnel Security Hearing, Case No. VSO-0359, 28 DOE ¶ 82,768 (2000), *aff'd*, Personnel Security Review, 28 DOE ¶ 83,016 (2001); Personnel Security Hearing, Case No. TSO-0011, 28 DOE ¶ 82,912 (2003); see also Personnel Security Hearing, Case No. TSO-0001, 28 DOE ¶ 82,911 (2003).

### III. Conclusion

As explained in this Decision, I find that DOE Security properly invoked 10 C.F.R. § 710.8(j) in denying the individual's request for an access authorization. For the

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<sup>9/</sup> Pertinent to the present case, the "*Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*," White House (December 29, 2005), ¶ 23, set forth the following mitigating factors:

(a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the individual acknowledges his or her alcoholism or issues of alcohol abuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser);

In applying these factors to the individual, I find that six months of abstinence do not overcome the security concerns arising from the individual's many years of excessive drinking particularly when the individual has failed to acknowledge, but instead continues to disingenuously minimize, his past excessive use of alcohol.

<sup>10/</sup> In reaching this conclusion, I do not necessarily endorse the opinion of the DOE Psychiatrist that two years of abstinence are required in order for the individual to demonstrate adequate reformation. However, I do agree that with only six months of abstinence at the time of the hearing, a substantial and unacceptable risk remains that the individual will relapse into excessive drinking.

reasons I have described above, I find that the individual has failed to sufficiently mitigate the security concerns associated with his use of alcohol. I am therefore unable to find that granting the individual an access authorization would not endanger the common defense and security and would be consistent with the national interest. Accordingly, I find that the individual's request for an access authorization should be denied at this time. The individual may seek review of this Decision by an Appeal Panel under the regulations set forth at 10 C.F.R. § 710.28.

Fred L. Brown  
Hearing Officer  
Office of Hearings and Appeals

Date: February 6, 2007